

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THERESA HOLBROOK KRAFT, et al.,

Plaintiffs,

No. CIV S-04-0129 GGH

vs.

SHANNON LANEY, et al.,

Defendants.

ORDER

Plaintiffs have filed objections to the pretrial order issued in this case. The court rules as follows.

1. Plaintiffs have until September 23, 2005 in which to file a reply to the opposition concerning its motion to exclude Timothy Albertson, M.D. as a witness.

2. If the only defendants in this case were individuals, the court would deny plaintiffs' request to change the statement of the deliberate indifference claim in the pretrial order. At the very least, individuals would have a qualified immunity to any definition of deliberate indifference outside that of the Eighth Amendment in that any such new definition would not be clearly established law. However, because this case involves an entity as well, the court will take plaintiffs' objection under submission. The parties are directed to address this issue in any trial brief and/or objections to jury instructions.

1 3. Motions-in-limine are to be briefed as follows:

2 Moving party's motions to be filed by October 7, 2005; oppositions are due no
3 later than October 14, 2005. No replies shall be filed. If necessary, the court will hold argument
4 on the first day of trial either before or after jury selection.

5 With the exception of Daubert issues, the parties shall not file motions-in-limine
6 which they should know will require an evidentiary foundation at trial in any event. Rather, any
7 such problems shall be raised after the foundation is presented, or the lack thereof. The court
8 would appreciate a "heads-up" for any such issues in the trial briefs.

9 DATED: 9/19/05

/s/ Gregory G. Hollows

10 _____
11 GREGORY G. HOLLOWS
12 U. S. MAGISTRATE JUDGE

13 GGH:gh
14 kraft0129.ord
15
16
17
18
19
20
21
22
23
24
25
26